IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6349 of 2007()

CRIME NO. 65/07 OF NOORANAD EXCISE RANGE

PETITIONER/ACCUSED

RADHAMANY, W/O PRASAD,
KULLAMULLATHIL VEEDU,
PALLIKKAL MURI, PALAMEL VILLAGE.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6349 of 2007

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Dated this the 23rd day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. She was allegedly found to engage in the activity of illicit vending of IMFL. She was apprehended and intercepted, but arrest could not be effected as the detecting Excise party did not consist of any woman official. The petitioner apprehends imminent arrest.

2. According to the petitioner, she is absolutely innocent. She has been unnecessarily arrayed as accused. She is a house wife aged about 33 years, having an infant child also. It was her husband who was in possession of the IMFL . She was unnecessarily brought on the array of accused. In these circumstances anticipatory bail may be granted to the petitioner, submits the counsel.

3. The learned Prosecutor opposes the application. He submits that sufficient materials indicating the complicity of the petitioner has been collected. The contention that the petitioner's husband is the real accused and that the petitioner has been wrongly included in the

array for the reason that her husband is a psychiatric patient is absolutely incorrect. The Detecting officials had not even effected arrest of the petitioner and that must convey to the court that they are not actuated by any ulterior motives. This is not a fit case where anticipatory bail can or ought to be invoked in favour of the petitioner. She may be directed to surrender before the learned Magistrate and seek regular bail, submits the Prosecutor.

4. In the facts and circumstances of the case, I find merit in the opposition raised by the learned Prosecutor. I find no features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioner. This, I am satisfied, is a fit case where the petitioner must resort to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate having jurisdiction and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case,

the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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